

Tyringham Planning Board
Meeting Minutes – October 17, 2011
(Approved 10/24/11)

Public Hearing on Proposed Change to Town Bylaw 6.7 (Wireless Communication)

Present: Jerry Miller, Carey McIntosh, Rich Biasin, Ed Nardi, Barbara Palmer, Robin Almgren, and about 30 others (names of those who signed in on record with these minutes).

(1) Approval of Minutes - Minutes for 9/26/2011 approved as circulated.

(2) Reading of Hearing Notice - The Notice of this Hearing, as posted, mailed, and published, was read aloud. (Copy on record with these minutes.)

(3) Planning Board's report on the recommended change to Zoning Bylaw 6.7:

Comments from townspeople during the five months since the new bylaw was passed have been critical: the new 6.7 seems to make putting up a wireless communications tower impossible in Tyringham. Maps received in August from the Assessor's office confirm this; the new bylaw is therefore in violation of the Federal Telecommunications Act of 1996.

Jerry's presentation was backed by slides projected on a screen: first, three maps of Tyringham showing how the three setbacks required by the new 6.7 interface with property lines. The 1500' setback from any lot boundary, the 1500' setback from any building or structure, and the 300' setback from any river front or wetland -- these three taken together leave zero possible locations for a tower.

A key text from the 1996 Act: no regulations may "prohibit, or have the effect of prohibiting, the provision of Personal Wireless Services." The new 6.7 would therefore be thrown out if challenged in court. The Board therefore recommends that the Town vote to strike the new 6.7 and revert to the old 6.7. Protection for the Town is maintained by the old 6.7 and by articles in Zoning Bylaws 7.3.3 and 7.3.4 which give the Board broad powers to impose conditions on any Special Permit. The Town would be safer with the old 6.7 than with the new because it won't be thrown out by a court, and the Board can place specific conditions on any application to erect a tower.

(4) Board Member's Comments - Members of the Planning Board emphasized the complexity of the issues raised by this bylaw -- no town to our knowledge has come up with the perfect balance that will allow for good telecommunications but protect the community from being bulldozed by a large company with lots of money and lawyers. The Board will be working on a new bylaw, with the help of what it has learned from all the meetings and memos of the past year and with expert consultation.

Public Comment - Townspeople present at the meeting asked questions and commented.

They are concerned with the quality of service any telecommunications company will offer; with the town's vulnerability before a new 6.7 has been put in place; with the possibility of fiber-optic telecommunications and the costs of same; with what a Wi-Spring tower would bring to Tyringham; with new technologies that might bypass or circumvent present bylaws; with the need for cell phone service for emergencies; with the effects of a telecommunications tower on property values and scenic beauty; with the importance of expert advice in writing a new bylaw. Lois Jensen submitted written comments which are on record with these minutes.

The Board re-emphasized its belief that the Town is safer with the old 6.7 plus the powers to impose conditions, than it would be with the new 6.7. WiSpring has not re-applied, though it has told us that it is considering a second application, with the help of counsel.

Adjourned.